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BY ELECTRONIC FILING

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: *GN Docket No. 15-206*
Notice of Ex Parte *Presentation*

Dear Ms. Dortch:

Pursuant to 47 C.F.R § 1.1206(b), the North American Submarine Cable Association ("NASCA") notifies the Commission of an *ex parte* presentation in the above-referenced proceeding. On February 23, 2018, James Talbot (AT&T Inc.), Joshua Forman (GlobeNet), and Robert Morse (Verizon Communications, Inc.), and Kent Bressie and Susannah Larson (Harris, Wiltshire & Grannis LLP, as counsel for NASCA) met with Nicole McGinnis, Emily Talaga, David Plotinsky, Merritt Baer, and Jerome Stanshine of the Public Safety & Homeland Security Bureau and David Krech and Troy Tanner of the International Bureau. During the meeting, we discussed NASCA's petition for reconsideration of the submarine cable outage reporting requirements the Commission adopted last year.[1]

Consistent with NASCA's Petition and Supplement, we explained that the outage reporting rules should be rescinded because they remain fundamentally flawed. In their current form, these overly-broad requirements:

- Are premised on a phantom outage-reporting problem and otherwise lack a clearly stated purpose;
- Inappropriately divert operator efforts to focus on paperwork rather than repair and restoration efforts;
- Are based on a threshold that would capture mundane events, which would flood the Commission with irrelevant information; and
- Fail to address the real costs and benefits of the reporting requirements by failing to articulate clear benefits (given the Commission's lack of statutory authority to direct repair or restoration activities) and by relying on irrelevant and faulty cost data.

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[1] *See* Petition for Reconsideration of the North American Submarine Cable Association, GN Docket No. 15-206 (filed Sept. 7, 2016) ("Petition"); Supplement to Petition for Reconsideration, GN Docket No. 15-206 (filed Sept. 1, 2017) ("Supplement").

To further explain NASCA's position in its Supplement—that the rules are impractical for submarine cable systems and that a definition based on customer impact (i.e., where traffic is not re-routed in the event of an outage) is unworkable—we provided more detail on how traffic is typically restored for these systems. Virtually all system owners and capacity holders have redundancy or satellite backup to address outages. Specifically, submarine cable systems' three basic models of ownership (the single owner model; the traditional consortium model; and the joint build model) have their own restoration methods, as well as unique challenges to implementing the prospective reporting requirements.

- Single-owner (or "private") systems have a single owner that may use system capacity solely for purposes of its own internal needs, serving its own retail customers for its other lines of business, and/or selling wholesale capacity to third parties. The operator may use other of its own cables for restoration or may contract with third parties for restoration. In many cases, its wholesale customers will likely contract for their own restoration arrangements, and the operator will have no information about such arrangements.
- Traditional consortium systems, which can have up to 50 owners, are generally governed by a construction and maintenance agreement. While restoration may be handled at the consortium level, more frequently, individual owners handle their own restoration. The U.S. landing party and/or Commission licensees might lack visibility into the entire system and will often lack knowledge of restoration arrangements for other owners or whether other owners' traffic is successfully re-routed in the event of an outage.
- Joint build systems are governed by a joint build agreement, with each owner exercising greater autonomy over its fiber-pair interests and equipment as compared with a traditional consortium system. In some cases, owners with fiber-pair interests may not even be Commission licensees. In these models, restoration is typically company-specific, and restoration plans may be competitively sensitive.

In all cases, operators do not necessarily re-route traffic on an outage-by-outage basis, but may do so instantaneously and automatically using mesh networks. Such re-routing may occur not merely in the event of an outage but also due to increased latency (i.e., the amount of time it takes to transmit bits from one end-point to another) on a particular segment.

The rare cable outage affecting end-users would be reflected in the metrics reported by carriers under *existing* Part 4 rules.

Accordingly, NASCA urged the Commission to reconsider broadly the need for any submarine cable outage reporting rules. To improve network resilience, the Commission should instead focus on reducing the licensing and permitting burdens that add significant costs and time delays to the deployment of new submarine cable systems.

Should you have any questions, please contact me by telephone at +1 202 730 1337 or by e-mail at kbressie@hwglaw.com.

Respectfully submitted,

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